

TYPES OF DISCOVERY

**§ 18.60 Interrogatories to parties.**

(a) *In general*—(1) *Number*. Unless otherwise stipulated or ordered by the judge, a party may serve on any other party no more than 25 written interrogatories, including all discrete subparts. Leave to serve additional interrogatories may be granted to the extent consistent with § 18.51.

(2) *Scope*. An interrogatory may relate to any matter that may be inquired into under § 18.51. An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact, but the judge may order that the interrogatory need not be answered until designated discovery is complete, or until a prehearing conference or some other time.

(b) *Answers and objections*—(1) *Responding party*. The interrogatories must be answered:

(i) By the party to whom they are directed; or

(ii) If that party is a public or private corporation, a partnership, an association, or a governmental agency, by any officer or agent, who must furnish the information available to the party.

(2) *Time to respond*. The responding party must serve its answers and any objections within 30 days after being served with the interrogatories. A shorter or longer time may be stipulated to under § 18.54 or be ordered by the judge.

(3) *Answering each interrogatory*. Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.

(4) *Objections*. The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the judge, for good cause, excuses the failure.

(5) *Signature*. The person who makes the answers must sign them, and the attorney or non-attorney representative who objects must sign any objections.

(c) *Use*. An answer to an interrogatory may be used to the extent allowed by the applicable rules of evidence.

(d) *Option to produce business records*. If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records (including electronically stored information), and if the burden of deriving or ascertaining the answer will be substantially the same for either party, the responding party may answer by:

(1) Specifying the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could; and

(2) Giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

**§ 18.61 Producing documents, electronically stored information, and tangible things, or entering onto land, for inspection and other purposes.**

(a) *In general*. A party may serve on any other party a request within the scope of § 18.51:

(1) To produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:

(i) Any designated documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(ii) Any designated tangible things; or

(2) To permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

(b) *Procedure*—(1) *Contents of the request*. The request:

(i) Must describe with reasonable particularity each item or category of items to be inspected;

(ii) Must specify a reasonable time, place, and manner for the inspection

and for performing the related acts; and

(iii) May specify the form or forms in which electronically stored information is to be produced.

(2) *Responses and objections*—(i) *Time to respond*. The party to whom the request is directed must respond in writing within 30 days after being served. A shorter or longer time may be stipulated to under § 18.54 or be ordered by the judge.

(ii) *Responding to each item*. For each item or category, the response must either state that inspection and related activities will be permitted as requested or state an objection to the request, including the reasons.

(iii) *Objections*. An objection to part of a request must specify the part and permit inspection of the rest.

(iv) *Responding to a request for production of electronically stored information*. The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form—or if no form was specified in the request—the party must state the form or forms it intends to use.

(v) *Producing the documents or electronically stored information*. Unless otherwise stipulated or ordered by the judge, these procedures apply to producing documents or electronically stored information:

(A) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;

(B) If a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and

(C) A party need not produce the same electronically stored information in more than one form.

(c) *Nonparties*. As provided in § 18.56, a nonparty may be compelled to produce documents and tangible things or to permit an inspection.

#### § 18.62 Physical and mental examinations.

(a) *Examination by notice*—(1) *In general*. A party may serve upon another

party whose mental or physical condition is in controversy a notice to attend and submit to an examination by a suitably licensed or certified examiner.

(2) *Contents of the notice*. The notice must specify:

(i) The legal basis for the examination;

(ii) The time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it; and

(iii) How the reasonable transportation expenses were calculated.

(3) *Service of notice*. Unless otherwise agreed by the parties, the notice must be served no fewer than 30 days before the examination date.

(4) *Objection*. The person to be examined must serve any objection to the notice no later than 14 days after the notice is served. The objection must be stated with particularity.

(b) *Examination by motion*. Upon objection by the person to be examined the requesting party may file a motion to compel a physical or mental examination. The motion must include the elements required by paragraph (a)(2) of this section.

(c) *Examiner's report*—(1) *Delivery of the report*. The party who initiated the examination must deliver a complete copy of the examination report to the party examined no later than seven days after it receives the report, together with like reports of all earlier examinations of the same condition.

(2) *Contents*. The examiner's report must be in writing and must set out in detail the examiner's findings, including diagnoses, conclusions, and the results of any tests.

#### § 18.63 Requests for admission.

(a) *Scope and procedure*—(1) *Scope*. A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of § 18.51 relating to:

(i) Facts, the application of law to fact, or opinions about either; and

(ii) The genuineness of any described documents.

(2) *Form; copy of a document*. Each matter must be separately stated. A request to admit the genuineness of a